



AFQ

Docket No. CRD-0918

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Donald F. DePalma et al. Confirmation No. 4482
Serial No. : 10/041,117
Filed : January 8, 2002
Title : MODULAR ANEURYSM REPAIR SYSTEM
Art Unit : 3738
Examiner : Cheryl L. Miller

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November 21, 2006

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(Name of applicant, assignee, or Registered Representative)

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(Signature)

November 21, 2006

(Date of Signature)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 CFR § 41.41

Dear Sirs:

Appellants, through their attorney, in response to the Examiner's Answer dated September 22, 2006, would like to take this opportunity to reply specifically to paragraphs numbered 7 & 10 raised in the Examiner's Answer, and respectfully respond as follows:

REMARKS

7. Claims Appendix

With respect to the Examiner's remarks regarding the Claims Appendix section, Appellants respectfully submit the Examiner is correct in that Claim 20 was missing and apologize for any inconvenience as a result of the omission.

10. Response to Argument

With respect to Examiner's response, Applicants respectfully submit that the underlying basis for the rejection as presented by the Examiner lies in the fact that there is no limitation in the claim that indicates that the self-expanding lattice runs through substantially the whole soft material. This is clearly erroneous.

In *Corning Glass Works v. Sumitomo Electric U.S.A.*, 868 F.2d 1251, 9 USPQ2d 1962 (Fed Cir. 1989), the court stated, "a court may not redraft a claim for purposes of avoiding a defense of anticipation," and "extraneous" limitations from the specification....[should not] be read into the claim wholly apart from any need to interpret what the patentee meant by particular *words or phrases in the claim*," "[i]t is entirely proper to use the specification to interpret what the patentee meant by a word or phrase in the claim."

In *Glaverbel Societe Anonyme v. Northlake Marketing & Supply, Inc.*, 45 F.3d 1550, 33 USPQ2d 1496 (Fed Cir. 1995), the court stated, "In determining whether a patented invention is anticipated, the claims are read in the context of the patent specification in which they arise and in which the invention is described. If needed to impart clarity or avoid ambiguity, the prosecution history and the prior art may also be consulted in order to ascertain whether the patentee's invention is novel or was previously known to the art."

Clearly the specification, including the drawings, set forth that the phrase "self-expanding lattice and graft material covering at least a portion of the self-expanding lattice"

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means a stent running the length of the graft and not what Rhodes discloses or suggests. In other words, it is clear from the specification what the claims set forth.

Respectfully submitted,

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By: _____

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